IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TRACY B. ANDERSON,

Plaintiff,

v.

WARDEN WILLIAM POLLARD, DR. PAUL SUMNICHT, BELINDA SCHRUBBE, AMY SCHRAUFNAGEL, D. LARSON, ANN SLINGER, G. WALTZ, C. MESEROLE, OFFICIAL GIL, OFFICIAL STARCZYNSKI, OFFICIAL STANIEC, SGT. PASSIG and LT. SCHNEIDER,

Defendants.

OPINION & ORDER

13-cv-627-wmc

In this proposed civil action, plaintiff Tracy B. Anderson alleges that various staff members at Waupun Correctional Institution were deliberately indifferent to his serious medical needs in violation of the Eighth Amendment. In addition, Anderson filed a motion for a preliminary injunction (dkt. #8), a motion for assistance in recruiting counsel (dkt. #13), and a motion for an emergency order on that preliminary injunction (dkt. #12), the latter of which the court construes as a supplement to his original preliminary injunction motion.[1]

While Anderson is eligible to proceed *in forma pauperis* and has made an initial payment toward the full filing fee for this lawsuit, *See* 28 U.S.C. § 1915(b)(1), because he is also incarcerated, the court must screen his complaint pursuant to the Prison Litigation Reform Act ("PLRA") to determine whether it: (1) is frivolous or malicious; (2) fails to state

[1] Anderson has also filed a motion "to show [he is] continually being deprived of adequate medical care" (dkt. #7), which principally sets forth additional facts that are then referenced in his motion for a preliminary injunction. Since that motion does not seek any relief, except echoing the request for treatment, the court construes that motion as a supplement to the complaint and original preliminary injunction motion.

a claim upon which relief can be granted; or (3) seeks money damages from a defendant who is immune to such relief. For the reasons set forth below, Anderson will be allowed to proceed against two of the named defendants.

ALLEGATIONS OF FACT[2]

Either in March or early April of 2012, Anderson, an inmate at Waupun Correctional Institution ("WCI"), injured his left knee playing basketball. In response to his health service request, Anderson was seen sometime after the injury by defendant Dr. Paul Sumnicht of WCI, who prescribed him Vitamin D, 500 milligrams of Naproxen and some physical therapy exercises that Anderson found very painful. Dr. Sumnicht is also alleged to have made many misdiagnoses of his injured knee.

Over the next month, Anderson's knee pain remained serious, chronic and distressing despite submitting multiple health service requests. After Anderson filed a complaint regarding his treatment on May 14, 2013, Health Services Manager Belinda Schrubbe reviewed Anderson's file and responded that:

> Patient was seen by nurse on 5-14-13 for complaint of continued pain in left knee after a year. Nurse instructed patient to continue to follow provider's plan of care. Patient was scheduled a follow-up with provider. Patient was seen by provider on 6-7-13. Patient had x-ray of knee, which showed mild osteoarthritis of the knee. Patient was given muscle rub and tylenol for pain. Patient's concerns are being addressed.

(Compl. Exh. A (dkt. #1-1) 4.) Based on that assessement, Anderson's complaint was dismissed on June 27, 2013. (*Id*. at 5.)

[2] In addressing a *pro se* litigant's pleadings, the court must read the allegations generously. *Haines v. Kerner*, 404 U.S. 519, 521 (1972). For the purposes of this order, the court accepts the plaintiff's well-pled allegations as true and assumes the following material facts.

Lieutenant Schneider, the supervisor of security staff at WCI, was also aware of Anderson's chronic pain in his knee, as were all the staff members working in the segregation unit. Despite this knowledge, neither Schneider nor the other WCI staff placed an order to fix a broken sink in Anderson's cell, A #114, which eventually caused Anderson to fall and reinjure his left knee on May 20, 2013. Correctional Officer Gil witnessed Anderson on the floor immediately after he slipped and fell in the water from the broken sink, but never wrote an accident report on the matter. Officer Starczynski, who was the working "A-range official" in segregation on that day, also knew that Anderson had fallen in the water from the sink, but similarly wrote no accident report. In order to cover up what Anderson claims was a violation of his constitutional rights, Sergeant Passig also allegedly chose not to write an accident report, despite having known that the sink in cell A #114 was leaking water onto the floor. Passig also failed to put in a work order to fix the sink, although he was aware of the May 20 accident.

During Anderson's placement in segregation, Officer Staniec is alleged to have known that Anderson was suffering from chronic pain in his knee, but he apparently ignored Anderson's need for treatment and used unspecified excessive force on Anderson.

On August 1, 2013, an MRI of Anderson's left knee was performed offsite at Waupun Memorial Hospital. The MRI revealed a complex tear of the posterior horn of the lateral meniscus, a complete tear of the anterior cruciate ligament, a "possible subcortical vertically oriented travecular type fracture" of the patella, and a "[s]mall osseous contusion at the anteromedial aspect of the medial femoral condyle." Defendants Amy Schraufnagel, Gail Waltz, Ann Slinger, D. Larson and C. Meserole were all allegedly apprised of

Anderson's medical needs due to various interview/information requests that he filed after this MRI.

At some point, Anderson was given a knee brace, which he alleges was both defective and not fitted to his knee. As a result, Anderson's left knee gave out on him while going down stairs. Dr. Manlove had the defective knee brace taken away and set up an appointment for Anderson to meet with a therapist on September 11, 2013. He also had an R.N. order a knee brace that Anderson could wear while exercising. On September 17, 2013, defendant Larson saw Anderson in the Health Service Unit and told him that the knee brace had been ordered on September 13. Staff said that it would take the brace two weeks to arrive.

On September 24, 2013, Anderson was again taken off-site to Waupun Memorial Hospital to be seen by "Nurse Margie," who advised Anderson that he should not be walking around without a knee brace, because he was in serious danger of further damage. Nurse Margie also examined his knees, noticed redness and swelling in the injured knee, and said that she would tell WCI health service staff to give him ice and a knee brace.

On October 1, 2013, Anderson's left knee went out while he was in his cell. When WCI Correctional Officer Nelson arrived, Anderson told him to tell Sgt. Lentz, the cell hall overseer, so that she could give Anderson his medical ice and contact health service staff. Sgt. Lentz allegedly responded that she did not care about Anderson's chronic pain and injury. She also refused to contact Health Service Unit staff or give him the ice he had requested.[3]

[3] For whatever reason, Anderson has not named Lentz as a defendant in this case and the court cannot do so *sua sponte*. *See Myles v. United States,* 416 F.3d 551, 553 (7th Cir. 2005) ("[I]t]is\

As of October 24, 2013, Anderson had still not been provided with a new knee brace. Apparently, Anderson was also scheduled for a surgery in November of 2013 on his injured knee. That surgery was recently postponed until January.

OPINION

I. Deliberate Indifference

The Eighth Amendment affords prisoners a constitutional right to medical care. *Snipes v. DeTella*, 95 F.3d 586, 590 (7th Cir. 1996) (citing *Estelle v. Gamble*, 429 U.S. 97, 103 (1976)). Accordingly, government officials acting with deliberate indifference to the serious medical needs of prisoners violates the Eighth Amendment. *Snipes*, 95 F.3d at 590. A "serious medical need" (1) may be life-threatening, carries risks of permanent, serious impairment if left untreated, or results in needless pain and suffering when treatment is withheld, *Gutierrez v. Peters*, 111 F.3d 1364, 1371-73 (7th Cir. 1997); (2) may be "sufficiently serious or painful to make the refusal of assistance uncivilized," *Cooper v. Casey*, 97 F.3d 914, 916-17 (7th Cir. 1996); or (3) otherwise subjects the prisoner to a substantial risk of serious harm, *Farmer*, 511 U.S. at 828. "Deliberate indifference" means failing to take reasonable measures to abate an inmate's substantial risk of serious harm once made aware of it. *Farmer v. Brennan*, 511 U.S. 825, 847 (1994). A prisoner may also have a claim for deliberate indifference where a medical professional "chooses an 'easier and less efficacious treatment' without exercising professional judgment." *McGowan v. Hulick*, 612 F.3d 636, 641 (7th Cir. 2010) (citing *Estelle*, 429 U.S. at 104 n.10)).

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unacceptable for a court to add litigants on its own motion. Selecting defendants is a task for the plaintiff, not the judge.").

A. Medical Staff Defendants

Here, Anderson alleges that his knee injury left him with serious, chronic pain that he found distressing. He also alleges that his knee is completely torn, an allegation he supports with MRI results showing, among other things, a complete tear of his anterior cruciate ligament. For screening purposes, at least, these allegations are enough to demonstrate that Anderson has a "serious medical need."

As noted above, deliberate indifference also requires that defendants have actual knowledge of Anderson's serious medical needs. Anderson alleges generally that all of the defendants knew of his knee injury and, apparently, of his MRI results. He specifically alleges having seen Dr. Sumnicht about his knee problems, attaching numerous Health Service Requests and Information/Interview Requests that, based on the signatures, were reviewed by the other named defendants, including Schrubbe, Meserole, Waltz, Slinger, Larson and Schraufnagel. Those requests state that Anderson is experiencing chronic pain, swelling and stiffness in his leg. Finally, he alleges that Pollard, the warden, "refus[ed] or ignor[ed]" an interview request attached to the complaint, which refers to an ongoing injury to his left knee. With one possible exception, these allegations are sufficient at the screening stage to establish defendants' awareness of his serious medical needs.[4]

[4] The possible exception is defendant Sumnicht. Anderson pleads that Sumnicht *mis*diagnosed his knee injury multiple times, presumably believing it was less serious than it was. This allegation arguably demonstrates Sumnicht was *not* aware that Anderson was at substantial risk of serious harm, at least not before the August 2013 MRI. Assuming Sumnicht was merely mistaken, as opposed to intentionally indifferent to more persuasive, contrary evidence, then Anderson may have pled himself out of an Eighth Amendment claim against Sumnicht: inadvertent error, negligence and even gross negligence are insufficient grounds to invoke the Eighth Amendment. *Vance v. Peters*, 97 F.3d 987, 992 (7th Cir. 1996). For screening purposes only, the court will nevertheless infer an allegation that Sumnicht's repeated, mistaken diagnoses amounted to more than mere negligence.

Finally, Anderson must show that defendants failed to take reasonable measures to abate the substantial risk of serious harm he suffered, and it is here his claim against most of the defendants breaks down. Although he alleges that his knee injury went "untreated" for two years, the record shows that his knee injury *was* in fact treated, however unsatisfactorily. For example, Anderson admits that shortly after injuring his knee, he was seen by Dr. Sumnicht and prescribed Vitamin D, Naproxen for his pain and physical therapy exercises. (*See* Compl. (dkt. #1) 5.) The exhibits he submits also show that medical staff saw him frequently and that he was scheduled for appointments with nurses, doctors and physical therapists in response to his continued complaints of knee pain. Anderson has thus pled himself out of any claim that his knee injury went "untreated" for two years.

At most, what the complaint and exhibits arguably allege is that Anderson disagreed with the course of medical treatment pursued by defendants. (*See* Compl. Exh. 7 (dkt. #1-2) 13 (information request explaining that doctors are pursuing least invasive course of treatment first before increasing to more invasive treatments).) "[M]ere disagreement as to the proper medical treatment [does not] support a claim of an [E]ighth [A]mendment violation." *Monmouth Cnty. Corr. Inst. Inmates v. Lanzaro*, 834 F.2d 326, 346 (3d Cir. 1987); *see also Snipes v. DeTella*, *Snipes v. DeTella*, 95 F.3d 586, 590-91 (7th Cir. 1996) ("Medical decisions that may be characterized as 'classic example[s] of matter[s] for medical judgment, such as whether one course of treatment is preferable to another, are beyond the [Eighth] Amendment's purview.") (internal citation omitted).

Certainly, Anderson alleges that a regimen of Naproxen and physical therapy was insufficient to treat what an MRI later revealed to be a serious knee injury, but the pursuit of a *reasonable*, less-invasive course of treatment, even though it proved ineffective, does not

demonstrate that defendants behaved with deliberate indifference toward his injury. "[T]he Constitution is not a medical code that mandates specific medical treatment." *Snipes*, 95 F.3d at 592. Anderson does perfunctorily allege that Sumnicht's treatment decisions were so far a departure from accepted professional judgment as to show they had to be the product of deliberate indifference rather than reasonable medical judgment, which is barely sufficient for his claim against Sumnicht to survive. Anderson should understand that he will likely need proof in the form of an expert medical opinion for this claim to survive past screening.

Reading Anderson's complaint generously, he also appears to allege deliberate indifference premised on a *delay* in treatment, rather than on the selection of a course of treatment with which he disagreed. When a defendant is aware of a prisoner's serious medical need yet refuses to take action, that failure can support a deliberate indifference claim. *See McGowan*, 612 F.3d at 640. For example, an unreasonable "delay in treatment may constitute deliberate indifference if the delay exacerbated the injury or unnecessarily prolonged an inmate's pain." *Id.* (citations omitted); *see also Grieveson v. Anderson*, 538 F.3d 763, 779 (7th Cir. 2008) ("A delay in the provision of medical treatment for painful conditions – even non-life-threatening conditions – can support a deliberate-indifference claim."). "[T]he length of delay that is tolerable depends on the seriousness of the condition and the ease of providing treatment." *McGowan*, 612 F.3d at 640 (citations omitted).

Here, Anderson's complaint does not expressly allege deliberate indifference premised on delay, but the court will infer such a claim in two instances. First, he alleges that the arrival of a non-defective, properly-fitted knee brace has been unreasonably

delayed, even though he was told by Nurse Margie that the lack of this brace put him in "serious danger of further damage" and caused redness, swelling and pain. Second, his motion for a preliminary injunction states that badly-needed surgery has been unreasonably delayed, even after an MRI established profound damage to defendant's left knee.

As for Anderson's claimed delay in the receipt of a non-defective knee brace, the exhibits he attaches to his motion for a preliminary injunction show that none of the defendants he has identified were personally involved in that delay.[5] Rather, the communication between Anderson and defendants shows that he was measured for a knee brace, which was ordered after the ill-fitting, defective brace was taken from him. His later requests all indicate that his brace was ordered by the doctor and then ordered from a factory. From there, the delay appears to have been out of the prison officials' hands. Indeed, the communications Anderson has submitted suggest that prison officials were actively communicating with the manufacturer to see when the brace would arrive. (*See* dkt. #9-1, at 8 ("Your brace was ordered by the doctor on 9-11-13 and it was ordered 9-19-13 from a factory. It has not come in yet. We [are] unable to control the manufacturer. We have been calling and checking on it. When it comes in, we will call you over and dispense it."); *id.* at 21 ("We were informed this week that your brace has finally been shipped. Let me know if you don't have it by next Friday."). No further discovery is required to determine that this delay was out of prison officials' hands. Thus, Anderson may not

[5] Anderson also alleges that Larson lied about him not needing a knee brace. Looking at the Information/Interview requests he references, however, it appears Anderson actually requested a note excusing him from school, so he would not have to use his knee in walking up and down stairs, to which Larson responded that the doctor and physical therapist did not want Anderson *immobilizing* his knee, that he should use a knee sleeve and that he should continue to move his leg. (*See* dkt. #9-1, at 6.)

proceed on any claim premised on delay in the receipt of his knee brace, except to the extent Dr. Sumnicht or Schrubbe are alleged to have been deliberately indifferent to the severity of Anderson's injury and should have expedited use of a satisfactory knee brace.

Anderson will, however, be allowed to proceed on his claim of deliberate indifference premised on a delay in surgery. Though a more complete examination of the facts may show that his condition did not actually require immediate treatment, that defendants were not aware of the need for urgency, or that someone else was responsible for the delay, "those are details to be explored during discovery." *McGowan*, 612 F.3d at 641.

Anderson does not clearly identify in his pleadings which defendants he holds responsible for the delay in his surgery. The court can infer that defendant Schrubbe, at least, would have had the authority to authorize or approve surgery and so the court will also allow plaintiff to proceed against this defendant.[6] There is, however, no suggestion that any of the other medical staff workers, or the warden, would have been involved in making this sort of treatment decision. In fact, one of the exhibits Anderson attaches indicates that "[o]nly the doctor can determine what is medically necessary." (*See* Compl. Exh. 5 (dkt. #1-2) 10.) Accordingly, since § 1983 liability requires "personal involvement in the alleged constitutional deprivation," *Minix v. Canarecci*, 597 F.3d 824, 833 (7th Cir. 2010), the court will deny Anderson leave to proceed against Pollard, Schraufnagel, Larson, Slinger, Waltz and Meserole on this claim.[7]

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[6] While Dr. Sumnicht may at one point have had the authority to authorize surgery, it appears he is no longer in charge of Anderson's case. (*See* dkt. #12, at 2 (noting that Anderson's doctor is Dr. Manlove at this time).) Dr. Manlove is not named as a defendant in this case.

[7] A defendant may be "personally involved" in a constitutional deprivation, even when not directly involved, when he or she condones or acquiesces in a subordinate's unconstitutional treatment of the plaintiff. *Minix*, 597 F.3d at 833-34. However, none of the other defendants

B. Segregation Staff Defendants

Anderson also alleges claims that he styles as deliberate indifference claims against defendants Gil, Starczyski, Passig and Schneider, based on a broken sink in his cell that led to him slipping, falling and further injuring his knee. He alleges that he made the staff members in segregation "very aware of his suffering," but that Schneider and Passig never placed an order to fix the sink, while Gil and Starczyski never filled out an accident report after the incident.

These allegations do not state a claim for deliberate indifference against the defendants. First, and more broadly, "[a] non-medical prison official . . . cannot be held 'deliberately indifferent simply because [he] failed to respond directly to the medical complaints of a prisoner who was already being treated by the prison doctor.'" *Johnson v. Doughty*, 433 F.3d 1001, 1012 (7th Cir. 2006). The court has already noted that the exhibits Anderson provides establish that he was receiving treatment from the prison doctors. Thus, to the extent that Anderson faults the segregation staff in general for their failure to respond directly to his knee injury, he has not stated an Eighth Amendment claim.

Second, the specific actions with which Anderson takes issue, even if true, do not demonstrate deliberate indifference to a serious medical need. The failure to repair a broken sink is at best a claim for negligence, even if defendants were aware of Anderson's chronic knee pain, unless the substantial risk to Anderson was obvious.

Third, the failure to file an accident report does not in any way suggest that the staff members in segregation responded with deliberate indifference to his *medical needs*. And Anderson does not allege that these defendants deprived him of treatment after his fall

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fits this standard either.

(which could potentially support a deliberate indifference claim). Therefore, his Eighth Amendment claims against these defendants will be dismissed. Accordingly, any arguable claim Anderson *might* have for negligence against Schneider and Passig for failing to fix the sink in his cell are not properly joined with the deliberate indifference claims in this suit. Rule 20 governs when persons may be joined in a single action as defendants and enumerates two requirements: (a) a right to relief must be asserted against them "jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences," and (b) it must be the case that a "question of law or fact common to all defendants will arise in the action." Fed. R. Civ. P. 20(a)(2)(A) & (B). Here, the claims on which Anderson has been granted leave to proceed arise from a delay in knee surgery and Sumnicht's allegedly intentional misdiagnosis of his knee. A claim for negligence against Schneider and Passig, in contrast, arises from their failure to fix the sink and Anderson's resultant slip and fall. That claim, even if viable, does not overlap factually or legally with Anderson's claims against the medical staff. Anderson is, therefore, denied leave to proceed against defendants Gil, Starczyski, Schneider and Passig in this lawsuit.

II. Excessive Force

The court will also deny Anderson leave to proceed on his one-sentence, wholly conclusory claim that Official Staniec used excessive force against him while he was in segregation. First, he pleads no facts to support this claim. Second, it, too, is a claim unrelated to his principal claim for deliberate indifference to his medical needs.

III. Preliminary Injunction

Now that Anderson has been granted leave to proceed on an Eighth Amendment claim, the court proceeds to consider his motion for a preliminary injunction (dkt. #8). Anderson's motion does not actually state what injunctive relief he seeks. He focuses primarily on the denial of a properly functioning and fitted knee brace. In the supplemental motion (dkt. #12), he adds that his surgery has been pushed back from November 2013 until January 2014, presumably asking the court to compel defendants to schedule him for surgery sooner. Therefore, the court will construe the motion as seeking an injunction to expedite Anderson being provided a knee brace and surgery.

Anderson should be aware that a preliminary injunction is "an exercise of a very far-reaching power, never to be indulged in except in a case clearly demanding it." *Roland Mach. Co. v. Dresser Indus.*, 749 F.2d 380, 389 (7th Cir. 1984). To prevail on any motion for a preliminary injunction, plaintiff must show (1) a likelihood of success on the merits of his case, (2) a lack of an adequate remedy at law, and (3) an irreparable harm that will result if the injunction is not granted. *Lambert v. Buss*, 498 F.3d 446, 451 (7th Cir. 2007). If he meets the first three requirements, then the court will balance the relative harms that could be caused to either party should the court act or not act as requested. *Id.*

Anderson has not met his burden for a preliminary injunction. First, he has not shown a likelihood of success on the merits of his case -- particularly since the standard for deliberate indifference is very high. *See Snipes*, 95 F.3d at 590 ("Mere negligence or even gross negligence does not constitute deliberate indifference."); *Oliver v. Deen*, 77 F.3d 156, 159 (7th Cir. 1996) ("Medical malpractice . . . is not a violation of the [Eighth] [A]mendment."). Nor has he shown that he will suffer irreparable harm if the injunction is

not granted. In fact, his surgery has already been rescheduled, apparently for this month. (*See* dkt. #12-1.) In light of that, and given the high bar required for a preliminary injunction, the court finds that Anderson has not proven that he is entitled to such extraordinary relief at this time.

IV. Assistance in Recruiting Counsel

Anderson also asks the court to issue an order appointing counsel to represent him in this case. (Dkt. #13.) As a preliminary matter, Anderson should be aware that civil litigants have no constitutional or statutory right to the appointment of counsel. *E.g.*, *Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866 (7th Cir. 2013); *Luttrell v. Nickel*, 129 F.3d 933, 936 (7th Cir. 1997). The court may, however, exercise its discretion in determining whether to recruit counsel *pro bono* to assist an eligible plaintiff who proceeds under the federal *in forma pauperis* statute. *See* 28 U.S.C. § 1915(e)(1) ("The court may request an attorney to represent an indigent civil litigant *pro bono publico.*"); *Luttrell*, 129 F.3d at 936. Thus, the court cannot issue an order appointing counsel to assist Anderson; it merely has the discretion to recruit a volunteer. Accordingly, this court will construe Anderson's motion to appoint counsel as one seeking the court's assistance in recruiting a volunteer under 28 U.S.C. § 1915(e)(1).

Before a court seeks a volunteer, it is necessary that Anderson show that he has made reasonable efforts to find a lawyer on his own and that he has been unsuccessful or was prevented from making such efforts. *Jackson v. County of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992). Generally, this court requires the names and addresses of three lawyers whom plaintiff has asked to represent him and who have turned him down. Anderson has

included rejection letters from two law firms with his motion, and so he has technically not yet met this threshold requirement. (*See* Mot. for Assistance in Recruiting Counsel Exh. 1 (dkt. #13-1).) Even if he had, however, the court would decline to exercise its discretion to seek out a volunteer at this stage of the lawsuit.

The relevant question in determining whether it is appropriate to seek volunteer counsel is "whether the difficulty of the case – factually and legally – exceeds the particular plaintiff's capacity as a layperson to coherently present it to the judge or jury himself." *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007). Thus far, Anderson has demonstrated that he is capable of litigating this case on his own. He has assembled the records surrounding his medical treatment without the aid of counsel. His pleadings are neat and comprehensible, with citations to relevant case law. The legal standard for an Eighth Amendment deliberate indifference claim is relatively straightforward, and Anderson has shown substantial understanding of that legal standard even in the materials he has filed before screening). At this stage, the court does not believe that this case exceeds Anderson's capacity to litigate himself.

This denial is without prejudice to later reconsideration. This case is still in its earliest stages -- defendants have not even been served yet. If, in the course of litigation, it becomes clear that the case *does* exceed Anderson's capacity to present it to the court *pro se*, he may renew his motion at that time, explaining the circumstances that make this particular case too complex for him to litigate on his own.

ORDER

IT IS ORDERED that:

1) Plaintiff Tracy Anderson is GRANTED leave to proceed on his Eighth Amendment claims that defendants Dr. Paul Sumnicht and Belinda Schrubbe were deliberately indifferent to his knee injury.

2) Plaintiff is DENIED leave to proceed on all other claims and against all other defendants.

3) Pursuant to an informal service agreement between the Wisconsin Department of Justice and this court, copies of plaintiff's complaint and this order are being sent today to the Attorney General for service on the defendants. Under the agreement, the Department of Justice will have 40 days from the date of the Notice of Electronic Filing of this order to answer or otherwise plead to plaintiff's complaint if it accepts service for defendant.

4) For the time being, plaintiff must send defendants a copy of every paper or document he files with the court. Once plaintiff has learned what lawyer will be representing defendants, he should serve the lawyer directly rather than defendants. The court will disregard any documents submitted by plaintiff unless plaintiff shows on the court's copy that he has sent a copy to defendants or to defendant's attorney.

5) Plaintiff should keep a copy of all documents for his own files. If plaintiff does not have access to a photocopy machine, he may send out identical handwritten or typed copies of his documents.

6) Plaintiff's Motion for Preliminary Injunctive Relief (dkt. #8) is DENIED.

7) Plaintiff's Motion for Appointment of Counsel (dkt. #13) is DENIED without prejudice as to later reconsideration.

Entered this 21st day of January, 2014.

BY THE COURT:

/s/

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WILLIAM M. CONLEY
District Judge